IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8762 OF 2003

1. Shri Baliram Laxman Bhandari and anr. ..Petitioners

Vs.

1. Smt. Muktabai Budha Bandari and anr. ..Respondents

Mr.D.J. Deshmukh for petitioners.
Mr.A.G. Toraskar for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : June 13, 2006.

P.C.:

1. Heard Mr. Deshmukh the learned counsel for the petitioners-defendants.

2. The defendants filed their Written Statement on 7/3/2002 and issues were framed by the trial court on 2/7/2002 in RCS No.502 of 2000. The issue of limitation was neither raised nor it was framed.

3. For the first time, the petitioners-defendants moved an application for framing an additional issue under Order XIV Rule 5 on 25/2/2003 and the said

application has been rejected by the impugned order dated 11/3/2003 passed by the learned Civil Judge, Junior Division at Kalyan.

4. Admittedly, recording of the evidence was in progress and the trial court is right in stating that no issue on limitation was raised in the Written Statement filed by the defendants. Hence the rejection of the application for framing an additional issue of limitation does not call for any interference in this petition under Article 227 of the Constitution.

5. Petition is hereby rejected summarily. Interim order stands vacated.

(B.H. Marlapalle,J.)